

Appl. No. 09/529,575
Atty. Docket No. 7042R
Amdt. dated January 30, 2006
Reply to Office Action of September 29, 2005
Customer No. 27752

REMARKS

Claim Status

Claims 31, 32, 36, 41-46, 48, and 52-53 are pending in the present application. Claims 49-51 are canceled without prejudice. Claim 31 has been amended to add a topsheet as a claim element within the claimed invention. Support for the amendment is found at page 11, lines 27-32 of the specification. Claims 41 and 48 have also been rewritten to more specifically characterize the absorbent article's topsheet that is now claimed in Claim 31. Support for this amendment is found at page 11, lines 27-32 of the specification and the claims as originally filed. Correction of a typographical error was made with respect to removing duplicative verbiage related to the delivery system. Claims 52 and 53 have been amended to correct their dependency in view of the above canceled claims. Support for these amendments is found in the originally filed claims. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested. No additional claims fee is believed to be due.

Rejections Under 35 USC § 103(a)

Claims 31, 32, 36, 41-46, and 48-53 continue to be rejected under 35 USC § 103(a) as being unpatentable over Caldwell. The Office states that the reference discloses all aspects of the claimed invention but remains silent as to the percent by weight of the protease inhibitor. The Office therefore reasons that it would have been obvious to one of ordinary skill in the art at the time of the invention to have the protease inhibitor present in the article in a range of about 0.0001% to about 30% by weight. Applicants respectfully traverse this rejection.

Applicants respectfully submit that pending Claims 31, 32, 36, 41-46, 48, and 52-53 are not obvious in view of Caldwell. Applicants have amended the claims of the present invention to require incorporation of a liquid pervious topsheet which comprises the claimed protease inhibitor. The Caldwell reference fails to teach or suggest such a component. Rather, Caldwell focuses on barrier webs that are water resistant that may be useful for binding microorganisms. Although, Caldwell discloses the use of such webs for disposable absorbent articles, the reference does so in order that the treated material may be used on the outer shell (also known as an outer cover) or as a shedding shield (allows liquid to flow from it onto an absorbent core). The basic purpose of the barrier web that is treated in Caldwell is quite distinct from that of the liquid pervious

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topsheet of the absorbent article of the present invention where pentamidine is incorporated therein. In fact, the Caldwell teaches away from the present invention since it teaches treatment of a water resistant barrier nonwoven as compared to the liquid pervious topsheet of the present invention. Here, "obviousness cannot be established... where one of the references teaches away from the claimed invention." In re Grasselli, 281 USPQ 769, 780 (Fed. Cir. 1983). Although Caldwell is cited individually, it logically follows that the same law would apply to a single cited piece of art. Thus, it is unlikely that a skilled artisan would have even been motivated by Caldwell's directionally opposite teaching to even attempt to arrive at the present invention.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under §103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 31, 32, 36, 41-46, 48, and 52-53 is respectfully requested.

Respectfully submitted,

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By 

Date: January 30, 2006
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